

Message Text

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ACTION EUR-12

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TO SECSTATE WASHDC IMMEDIATE 4362

INFO AMEMBASSY BONN

AMEMBASSY LONDON

AMEMBASSY MOSCOW

AMEMBASSY PARIS

USMISSION NATO

USMISSION BERLIN

C O N F I D E N T I A L GENEVA 5243

EO 11652: GDS

TAGS: CSCE, PFOR, XG, WB

SUBJECT: QUADRIpartite RIGHTS AND RESPONSIBILITIES

FOR EUR/RPM

1. AT ALL DAY SESSION SATURDAY JULY 5 FOLLOWING TEXT ON QRR
WAS TENTATIVELY AGREED IN INFORMAL WORKING GROUP FOR PLACEMENT IN
FINAL CLAUSES OF PRINCIPLES DECLARATION.

BEGIN TEXT:

THE PARTICIPATING STATES, PAYING DUE REGARD TO THE PRINCIPLES
ABOVE AND, IN PARTICULAR, TO THE FIRST SENTENCE OF (THE
TENTH PRINCIPLE), NOTE THAT THE PRESENT (TITLE OF DOCUMENT)
DOES NOT AFFECT THEIR RIGHTS AND OBLIGATIONS, NOR THE COR-
RESPONDING TREATIES AND OTHER AGREEMENTS AND ARRANGEMENTSS.
END TEXT.

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2. ONLY ROMANIAN DEL HAD REMAINING DOUBTS ABOUT THE LANGUAGE, ASKING THAT "ON THE BASIS OF" BE SUBSTITUTED FOR "PAY DUE REGARD TO" AND SAID HE WOULD KEEP THIS PHRASE AS AN ALTERNATE IN HIS NOTEBOOK.

3. INFORMAL WORKING GROUP ALSO AGREED TO MAKE MINOR AMENDMENTS TO FIRST SENTENCE OF TENTH PRINCIPLE AS FOLLOWS:

BEGIN TEXT: THE PARTICIPATING STATES WILL FULFILL IN GOOD FAITH THEIR OBLIGATIONS UNDER INTERNATIONAL LAW, BOTH THOSE OBLIGATIONS ARISING FROM THE GENERALLY RECOGNIZED PRINCIPLES AND RULES OF INTERNATIONAL LAW AND THOSE OBLIGATIONS ARISING FROM TREATIES OR OTHER AGREEMENTS, IN CONFORMITY WITH INTERNATIONAL LAW, TO WHICH THEY ARE PARTIES. END TEXT.

4. SWEDISH, SPANISH, ROMANIAN, CANADIAN AND ITALIAN DELS, ALL TROUBLED BY PREVIOUS FORMULATION, HAD STRONG PREFERENCE TO PUT QRR IN TENTH PRINCIPLE. YUGOSLAV DEL HAD EQUALLY STRONG PREFERENCE FOR PLACING FORMULATION IN FINAL CLAUSES. THOSE WHO PREFERRED TENTH PRINCIPLE AGREED TO ACCEPT TEXT IN FINAL CLAUSES WITH SOME REFERENCE BACK TO TENTH PRINCIPLE TO STRENGTHEN THE ARGUMENT THAT THE RIGHTS AND OBLIGATIONS AND TREATIES, AGREEMENTS AND ARRANGEMENTS MENTIONED IN QUADRIPARTITE RIGHTS AND RESPONSIBILITIES CLAUSE ARE ONLY THOSE IN CONFORMITY WITH INTERNATIONAL LAW. UK DEL WISHED TO USE QRR TEXT AS A SAFEGUARD FOR LEGITIMATE USES OF FORCES SINCE PRINCIPLES OF REFRAINING FROM THE THREAT OR USE OF FORCE WILL PROBABLY NOT CONTAIN AN EXCEPTION FOR USES OF FORCE IN CONFORMITY WITH THE UN CHARTER. US, UK, FRG AND FRENCH DELS AGREED THAT KEY PHRASE "PAY DUE REGARD TO" SHOULD BE READ TO MEAN THAT EVEN AFTER TAKING ACCOUNT OF THE PRINCIPLES DECLARATION THEY NOTE THAT QRR'S ARE NOT AFFECTED. VERB WAS ALSO CHANGED FROM "CANNOT AND WILL NOT" TO "DOES NOT" WHICH LIMITS TO SOME EXTENT THE PREVIOUS PROSPECTIVE THRUST OF THE FORMULATION. OPPONENTS OF TEXT FEEL THAT WITH "PAY DUE REGARD TO" PHRASES AND CHANGE IN VERB PHRASE CARRIES SUBSTANTIALLY LESS IMPLICATION THAT STATES MAY

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AVOID THE IMPACT OF THE DECLARATION BY CREATING POST-CSCE RIGHTS AND OBLIGATIONS IN NEW AGREEMENTS WHICH ARE CONTRARY TO THE DECLARATION. FINAL CHANGE WAS IN ADDING WORD "OTHER" BEFORE "AGREEMENTS". ONE OF OPPONENTS' OBJECTIONS TO QRR WAS THAT WHEN READ TOGETHER WITH FIRST SENTENCE OF TENTH PRINCIPLE TEXT WOULD APPEAR (CORRECTLY) TO EXEMPT ARRANGEMENTS NOT IN CONFORMITY WITH INTERNATIONAL LAW. ADDITION OF WORD "OTHER" CREATES AN AMBIGUITY ALLOWING

CERTAIN DELEGATIONS TO READ "ARRANGEMENTS" TO BE A FORM OF TREATY AND THUS, THEY WOULD ARGUE, GOVERNED BY INTERNATIONAL LAW. FRG, UK, UK AND FRENCH DELS AGREED THAT BETTER READING WAS TO READ ARRANGEMENTS AS A SEPARATE CONCEPT AND NOT A SUB-CATEGORY OF "TREATIES".

5. POINT WAS MADE PRIOR TO TENTATIVE AGREEMENT ON THIS SUBJECT THAT OPERATIVE PARA 3 OF ROMANIAN NON-USE OF FORCE PAPER WOULD NOW HAVE TO BE REVISED TO REFLECT FACT THAT QRR FORMULATION IS NO LONGER CONTAINED WITHIN LIST OF TEN CSCE PRINCIPLES. THERE WAS NO OBJECTION TO THIS POINT. DALE

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